

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 8-21-01.
b. The request was received on 5-29-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFA
 - c. TWCC 62s
 - d. Example EOBs
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 6-21-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 6-24-02. The response from the insurance carrier was received in the Division on 7-8-02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of A letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 6-12-02:

"We have submitted a claim to the Carrier for date of service 8-21-01 for a Jeanie massager in the amount of \$250.00 and for an accessory kit for the massager in the amount of \$139.00.... The expected out come [sic] of this issue is that we feel the claims should be paid in full. In accordance with DME Ground Rules Section IX c states invoices should be billed at the provider's usual and customary rate. Reimbursement shall be an amount pre-negotiated between the provider and carrier or if no pre-negotiated amount, the fair and reasonable rate. We have billed the Carrier our usual and

customary rate and have provided the Carrier with examples of audit sheets and/or copies of checks where other carriers in this area have established the \$250.00 for the Jeanie Massager and the \$139.00 charge for the accessory kit as a fair and reasonable amounts as the commission has not established a MAR for these items.”

2. Respondent: Letter dated 7-8-02:
“Carrier responds as follows using it [sic] best understanding of the dispute in order to further the process. Carrier reduced to a fair and reasonable amount the charged price for a Genie Massager and Accessory Kit from \$389.00 (\$250.00 plus \$139.00) to \$182.50 (\$140.50 plus \$42.00); DOS was 8/21/01. The Provider’s examples of the price accepted by others is founded upon information from other geographic regions. Carrier developed and consistently applied methodologies to ensure similar reimbursement to similarly situated Providers per TWCC Rule 133.304(i). The reimbursement allowed here, was issued in consideration of this mythology [sic].”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 8-21-01.
2. The carrier denied the billed services as reflected on the TWCC 62 as, “M –NO MAR, REDUCED TO FAIR AND REASONABLE; D – DENIAL AFTER RECONSIDERATION RE-EVALUATION NO ADDITIONAL RECOMMENDED ALLOWANCE”.
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB	MARS	REFERENCE	RATIONALE:
8-21-01	E1399 Genie Massager	\$250.00	\$140.50	M, D	DOP	MFG; Durable Medical Equipment (DME) Ground Rule (IX) (C); Section 413.011 (d), Rules 133.304 (i) & 133.307 (g) (3) (D); 133.307 (j) (1) (F); HCPCS Descriptor	<p>The Carrier has denied the disputed services as, "M ".</p> <p>Pursuant to TWCC Rule 133.307 (g) (3) (D), the Requestor has submitted example EOBs reflecting that other carriers have reimbursed the amount billed.</p> <p>TWCC Rule 133.304 (i) states, "When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall: (1) develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances received similar reimbursement; (2) explain and document the method it used to calculate the rate of pay, and apply this method consistently; (3) reference its method in the claim file; and (4) explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement."</p> <p>The carrier has reimbursed the provider \$182.50 of a \$389.00 charge. However, the carrier has failed to support this reimbursement with documentation that discusses, demonstrates and/or justifies that the payment made represents fair and reasonable.</p> <p>The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. However, in this case, the Respondent has failed to support their position that the amount reimbursed is fair and reasonable (as required by TWCC Rule 133.307 (j) (1) (F). The requestor has provided some documentation to support their position that the amount billed is fair and reasonable</p> <p>Therefore additional reimbursement is recommended in the amount of \$206.50. (\$389.00 billed - \$182.50 already paid = \$206.50.)</p>
8-21-01	E1399 Accessory Kit for Massager	\$139.00	\$ 42.00	M, D	DOP		
Totals		\$389.00	\$182.50				The Requestor is entitled to additional reimbursement in the amount of \$206.50 .

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$206.50** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

MDR: M4-02-3615-01

This Order is hereby issued this 05th day of March 2003.

Lesa Lenart
Medical Dispute Resolution Officer
Medical Review Division

LL/ll